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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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THOMAS GREGORY PAUL,

Plaintiff,

v.

LAMERE, *et al.*,

Defendants.

Case No. 3:18-cv-00039-MMD-VPC

ORDER

On January 23, 2018, Plaintiff filed an application to proceed *in forma pauperis* but did not submit a complaint. (ECF No. 1). On January 26, 2018, this Court issued an order denying the application to proceed *in forma pauperis*, without prejudice, because the application was incomplete. (ECF No. 3 at 1-2). The Court ordered Plaintiff to submit a complaint and to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$400.00 within thirty (30) days from the date of that order. (*Id.* at 2). The thirty-day period has now expired, and Plaintiff has not submitted a complaint, filed another application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with

1 local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for
2 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.
3 1992) (dismissal for failure to comply with an order requiring amendment of complaint);
4 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
5 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*
6 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply
7 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal
8 for lack of prosecution and failure to comply with local rules).

9 In determining whether to dismiss an action for lack of prosecution, failure to
10 obey a court order, or failure to comply with local rules, the court must consider several
11 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need
12 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
13 favoring disposition of cases on their merits; and (5) the availability of less drastic
14 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,
15 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.


16 In the instant case, the Court finds that the first two factors, the public's interest in
17 expeditiously resolving this litigation and the Court's interest in managing the docket,
18 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
19 in favor of dismissal, since a presumption of injury arises from the occurrence of
20 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.
21 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public
22 policy favoring disposition of cases on their merits – is greatly outweighed by the factors
23 in favor of dismissal discussed herein. Finally, a court's warning to a party that his
24 failure to obey the court's order will result in dismissal satisfies the "consideration of
25 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;
26 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to submit a complaint
27 and to file another application to proceed *in forma pauperis* or pay the full filing fee
28 within thirty days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff does not

1 timely comply with this order, dismissal of this action may result.” (ECF No. 3 at 2).
2 Thus, Plaintiff had adequate warning that dismissal would result from his
3 noncompliance with the Court’s order to submit a complaint and to file another
4 application to proceed *in forma pauperis* or pay the full filing fee within thirty (30) days.

5 It is therefore ordered that this action is dismissed without prejudice based on
6 Plaintiff’s failure to submit a complaint and to file another application to proceed *in forma*
7 *pauperis* or pay the full filing fee in compliance with this Court’s January 26, 2018,
8 order.

9 It is further ordered that the Clerk of Court enter judgment accordingly.

10 DATED THIS 8th day of March 2018.

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14 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE
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